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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/552,647 | 01/03/2007 | Richard Schneider | 3181-052453 | 2632 |
| 28289 7590 04/01/2009 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219 | | | | |
| EXAMINER | | | | |
| SMITH, JASON C | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3617 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 04/01/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,647

Applicant(s)

SCHNEIDER ET AL.

Examiner

Jason C. Smith

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements (IDS) submitted on 08/24/2007 and 10/01/2007 are being considered by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-33 and 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (3,877,389) in view of Polley (5,947,031) in view of Herring, Jr. (3,695,186). Dean discloses a running gear for a railway vehicle, comprising at least one wheelset (22), a running gear frame, which is supported on said wheelset by means of a primary suspension(24.2), a tilting device (24.3) for controlled tilting of the coach body about a longitudinal axis of the railway vehicle. Dean discloses the running gear set forth above, but does not disclose a secondary suspension. However, Polley does disclose a secondary suspension (30). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide secondary suspension disclosed in Dean in view of the teaching of Polley. The motivation for doing so would have been to provide a more stable ride for passengers. Dean discloses the running

gear set forth above, but does not disclose a transversal suspension. However, Herring, Jr. does disclose a transversal suspension (10), wherein said transversal suspension or a transversal damping are arranged above the secondary suspension and below the bottom of the coach body (see fig. 1), and wherein an intermediate support is arranged above the secondary suspension (see fig. 1), which supports a control member (col. 2, lines 53-68 and col. 3, lines 1-68) for adjusting the tilt of the coach body with respect to the running gear frame, and wherein that the intermediate support includes a recess through which a holder (31, of Dean), which supports the transversal suspension or transversal damping projects. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide transversal suspension disclosed in Dean in view of the teaching of Herring, Jr. The motivation for doing so would have been to provide a lateral suspension system and to provide a better ride for passengers; [claim 23] Polley does not disclose two air bags. However, it would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have 2 air bags, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. The motivation for doing so would have been for a more stable system; [claim 24, 25] see figure 3 of Dean; [claim 26-32 and 37-42] wherein the running gear frame has two transversal supports, and wherein the holder supporting the transversal suspension is connected to the two transversal supports (12, 14, of Herring and see figure 1, and col. 3-6)

3. **Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Dean (3,877,389) in view of Polley (5,947,031) in view of Herring, Jr. (3,695,186) in view of Cummins (6,622,637).** Dean discloses the running gear set forth above, but does not disclose rollers and roller tracks. However, Cummins does disclose rollers (150) and roller tracks (150). For claims 34-36, see figures 3 and 4. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide rollers and roller tracks disclosed in Teichmann in view of the teaching of Cummins. The motivation for doing so would have been so that when a vehicle enters a turn the body can be angled into the radius of the turn, so the carriage remains parallel to the track.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason C. Smith whose telephone number is (571) 270-5225. The examiner can normally be reached on M- F, 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

/Jason C Smith/
Examiner, Art Unit 3617